

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
WESTERN DIVISION**

NASRIN AFJEH,

CASE NO. 3:21 CV 778

Plaintiff,

v.

JUDGE JAMES R. KNEPP II

VILLAGE OF OTTAWA HILLS, et al.,

Defendants.

ORDER

Currently pending before the Court is Defendants' Motion for Order Requiring Plaintiff to Remove Sign and Post No Further Advertising Related to This Case. (Doc. 33). Defendants seek an injunctive order from this Court requiring Plaintiff to remove a sign posted on her property which they contend "makes false and vile statements implicating issues in this lawsuit" and requiring Plaintiff place no other signs on her property related to this case. *Id.* at 1. They contend such a gag order is necessary to protect their right to a fair trial. *Id.* at 3.

Before a court may properly and prospectively limit access to free speech, it must make specific findings demonstrating there is: (1) a substantial probability Defendants' right to a fair trial will be prejudiced by publicity the gag order would prevent; and (2) there is no reasonable alternative that will adequately protect the Defendants' right to a fair trial. *See Press-Enterprise Co. v. Superior Court*, 478 U.S. 1, 14 (1986).

Moreover, the Court notes "[c]riticism of government is at the very center of the constitutionally protected area of free discussion." *Rosenblatt v. Baer*, 383 U.S. 75, 85 (1966); *see also Susan B. Anthony List v. Driehaus*, 814 F.3d 466, 473 (6th Cir. 2016) ("Political speech is at the core of First Amendment protections.").

Defendants seek the removal of a sign posted by Plaintiff that makes statements regarding the Mayor of Ottawa Hills, a Defendant in this case. The Court finds Defendants have not made the requisite showing for their request. That is, the Court finds Defendants have not shown a substantial probability their right to a fair trial will be prejudiced by publicity the gag order would prevent. Jurors for trials in this Court are drawn from the entirety of the Western Division of the Northern District of Ohio, not just from Ottawa Hills and the surrounding areas. And without such a showing, the Court will not order the removal of public criticism of a public official, even if it is related to this pending lawsuit.

For the foregoing reasons, good cause appearing, it is

ORDERED that Defendants' Motion (Doc. 33) be, and the same hereby is, DENIED.

s/ James R. Knepp II
UNITED STATES DISTRICT JUDGE